

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:
Fred J. Molz, IV

Serial No.: 10/757,819

Filed: January 15, 2004

SPINAL IMPLANT CONSTRUCT AND
METHOD FOR IMPLANTATION

) Before the Examiner:
) Javier G. Blanco

) Group Art Unit: 3738

) Docket: MSDI-667/PC860.00

**DECLARATION OF PRIOR INVENTION IN THE UNITED STATES
TO OVERCOME CITED PATENT OR PUBLICATION (37 C.F.R. §1.131)**

I, Fred J. Molz, IV, hereby declare as follows:

1. I am the sole inventor of the subject matter disclosed and claimed in the subject patent application (hereafter "the Invention").

2. U.S. Patent No. 7,195,643 to Jackson was cited in a final Office Action mailed to the Applicant on September 26, 2007. This Declaration is being provided to establish a date of conception of the Invention in the United States on a date prior to August 29, 2003, which is the purported effective filing date of U.S. Patent No. 7,195,643 to Jackson.

3. On a date prior to August 29, 2003, the Invention was conceived of by me in the United States. The Invention was submitted for review by representatives of the Applicant via an Invention Disclosure document (copy attached) including drawings and a description of the Invention that correspond to the subject matter disclosed and claimed in the subject patent application. The dates listed on the Invention Disclosure and other non-critical information have been redacted. However, I declare that the "Date Conceived" listed in the Invention Disclosure occurred on a date prior to August 29, 2003.

4. Via a correspondence dated August 12, 2003 (copy attached), the firm of Woodard, Emhardt, Moriarty, McNett & Henry was instructed to prepare a draft patent application based on subject matter set forth in the Invention Disclosure.

5. Following review/revision of the draft patent application, the subject patent application was filed with the U.S. Patent and Trademark Office on January 15, 2004.

WITNESS Declarant's hand this 12 day of November, 2007.

Fred J. Molz, IV
Fred J. Molz, IV

INVENTION DISCLOSURE

**Medtronic****SOFAMOR DANEK**

Disclosure No.

Sheet 1 of ~~100~~ 3

PC8600

Title of Invention Combination plate and interbody fusion construct and Method for implanting			Project No. or Name
Inventor(s) Fred Molz			Eng. Notebook No. & Pages
Date Conceived [REDACTED]	Date Constructed	Date First Tested	Date Disclosed Outside Company

1. Describe what is new or different about the subject matter of this invention:

Device incorporates a plate and attached interbody cage. The interbody cage is somewhat rectangular and capable of rotating relative to the plate. The interbody cage interior is packed with graft or bone inductive material. The interbody cage is inserted with the short sides perpendicular to the endplates. The plate is secured to the adjacent vertebrae. The cage is then rotated 90 degrees such that the short sides are parallel to the endplates and locked in place. During the locking procedure, the material within the cage could be compressed (if desired).

2. Advantages of this invention over what was done before and problems solved:

Ensures controlled compression of the interbody cage and contained graft material. Ensures cage and contained graft are in intimate contact with the prepared vertebral body endplates. Plate resists tensile loads during extension and may justify this device as a "stand alone" interbody construct.

- Plate prevents the vertebral bodies from distracting (i.e., separating) while the cage is rotated, thereby ensuring compression of the cage.

3. Describe your idea on attached sheets, providing whatever drawings or other sketches are necessary to completely describe the idea. Copies of engineering notebook sheets may be provided. All addendum sheets must be signed, witnessed and dated.

Inventor (Print/Type) Fred Molz Address: 201 Pikes Peak Drive, Collierville, TN 38017 Citizenship: USA Signature <i>Fred J. Molz, II</i> Date [REDACTED]		Witness (Print/Type) Roy Lim Read, Witnessed and Understood Signature <i>Roy Lim</i> Date [REDACTED]	
Inventor Address: Citizenship: Signature _____ Date _____		Witness (Print/Type) Steve Peckham Read, Witnessed and Understood Signature <i>Steve Peckham</i> Date [REDACTED]	
Inventor Address: Citizenship: Signature _____ Date _____		Signature Approval <i>[Signature]</i> President, Technology Development	

Rev. [REDACTED]

INVENTION DISCLOSURE



Medtronic

SOFAMOR DANEK

Disclosure No. PC860.00

Project No. _____

Sheet 2 of ~~20~~ 3

List patents, publications and products which you are aware of and which preceded your invention.

[REDACTED]

Fred Molz Fred J. Molz, IV [REDACTED]
Inventor Date

Roy Lini [REDACTED]
Read, Witnessed and Understood Date

Inventor Date

St Pe [REDACTED]
Read, Witnessed and Understood Date

Inventor Date

Rev. [REDACTED]



Drawings and Description of Idea

See attached drawings

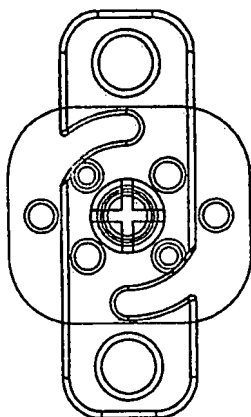


Figure 1: Front view of unlocked construct

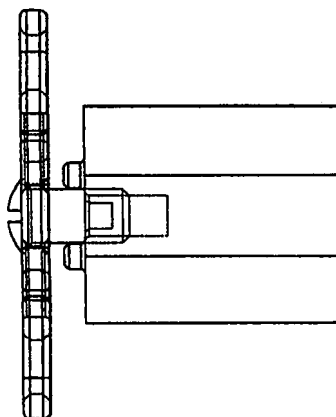


Figure 2: Side view of unlocked construct

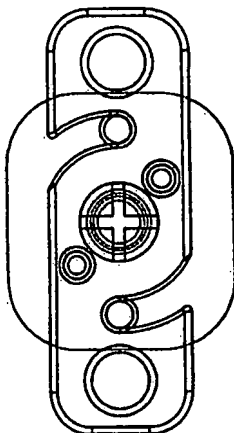


Figure 3: Front view of locked construct

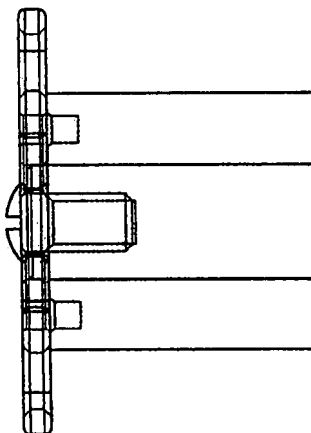


Figure 4: Side view of locked construct

Fred Molz

Fred J. Molz, Jr.

Date

Inventor

Date

Inventor

Date

Read, Witnessed and Understood

Date

Read, Witnessed and Understood

Date

Rev



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August 12, 2003

VIA FED EX

Brad A. Schepers, Esq.
Woodard, Emhardt, Moriarty,
McNett & Henry, LLP
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137

RECEIVED

AUG 21 2003

Woodard, Emhardt, Moriarty,
McNett & Henry LLP

RE: Combination Plate and Interbody Fusion Construct and Method for
Implanting
Your Ref. No. 4002-3240
Our Ref. No. PC860.00

Dear Brad:

We would like you to prepare a draft utility patent application on the above-referenced invention disclosure. Please prepare the application for a fee not to exceed [REDACTED] including drawings. This fee does not include filing fees. If this meets with your approval, please sign the enclosed form and fax it back to me at (901) 344-1583. Although I am not aware of any pending bar dates, we would like to receive the draft application no later than November 9, 2003. Please note that we will send by separate letter the billing instructions relating to this application.

Additionally, please have the application prepared in accordance with the attached Patent Application Drafting Guidelines.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim", written in dark ink.

James J. Bindseil
Senior Patent Counsel

JJB:smc
Enc.
cc: Fred Molz